IN THE HIGH COURT OF BOMBAY AT GOA, PANAJI-GOA.

APPEAL FROM ORDER NO. 26 OF 2006
AND
CIVIL APPLICATION NO. 116 OF 2006

1. Smt. Sunetra Suresh Kerkar
   Widow of Shri Suresh D. Kerkar,
   Major, landlady,

2. Kum. Shefali S. Kerkar,
   Daughter of late Shri Suresh D. Kerkar,
   Major, spinster, service,
   Both residing at Amarkhane,
   Keri, Ponda, Goa, and presently
   Residing at Dadar, Mumbai 400 014.

3. Shri Ninad S. Kerkar,
   Son of late Shri Suresh D. Kerkar,
   Major, service, resident of Amarkhane,
   Keri, Ponda-Goa.
   (All three represented by their duly
   Constituted Power of Attorney,
   Shri Sachin S. Kerkar, major
   Resident of Uppar Bazar,
   Ponda-Goa. .... Appellants

Versus

1. Smt. Savitri Babli Gaude,
   Widow of late
   Shri Babli Yeshwant Gaude,
   Major, resident of Curti,
   Ponda-Goa.

2. Communidade of Curti,
   Through its Attorney,
   Having office at Curti,
   Ponda-Goa.

3. Smt. Mortal Shrikant Gaude,
   D/o Babli Yeshwant Gaude
   & her husband

4. Shri Shrikant Serro Gaude,

5. Smt. Shakuntala Shantaram Gaude,
   d/o Babli Yeshwant Gaude
   & her husband

6. Shri Shantaram Shive Gaude,
   All r/o Kelbaiwada, Curti,
   Ponda-Goa. .... Respondents

Shri S.G. Dessai, Sr. Advocate with Shri Shivan Dessai, Advocates for the Appellants.

Shri J.E. Coelho Pereira, Sr. Advocate with Shri S. Karpe, Advocates for the Respondents.

CORAM : **P.V. KAKADE, J.**

DATE : **8th November, 2006**

ORAL JUDGMENT:

Heard the learned Counsel for both the parties. Perused the record.

2. This is an appeal against the judgment and order dated 20/02/2006 passed by the Civil Judge, Senior Division at Ponda, rejecting

the plaintiffs' application for temporary injunction with regard to the suit property.

3. In the course of hearing of the matter, I am of the view that if at all we determine issues involved on merits at this stage in the Special Civil Suit of the year 2003, then virtually it would amount to determination of the basic issues involved in the suit itself, which should be tried on merits at the time of trial in the lower Court.

4. Under the circumstances, I am of the view that the suit should be expedited so as to enable the parties to lead evidence on final merits of the matter, instead of determining this appeal at this stage when the suit is pending for adjudication for last 3 years.

5. Hence, it is directed that the hearing of the suit shall be expedited by the trial Court so as to dispose of on merits on or before 30/11/2007, after giving opportunity to both the sides to lead evidence. In the meantime, both the parties shall maintain status quo with regard to the suit land as on today. All the contentions of both the parties taken up in this appeal as well as in the suit are kept open for adjudication at the time

of final hearing.

6. With these directions, the appeal stands disposed of with no order as to costs. Consequently, civil application no.116 of 2006 also stands disposed of with no order as to costs. The lower Court to act upon the directions issued as aforesaid.

P.V. KAKADE, J.

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